

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

LAMAR LEE STANTON,

Petitioner,

v.

DAN BUCKWALD,

Respondent.

Case No. 6:17-cv-01826-MC

ORDER OF DISMISSAL

MCSHANE, District Judge:

Petitioner, an inmate at the Lane County Jail, filed a petition for writ of habeas corpus. However, petitioner did not submit the \$5.00 filing fee or an application to proceed in forma pauperis.

Moreover, the face of the petition reveals that petitioner does not raise a viable federal claim. Petitioner alleges that he was arrested on March 18, 2017 and charged with sodomy and sex abuse. Pet. at 1 (ECF No. 1). Petitioner maintains that the charging documents fail to allege sufficient facts to show the commission of the crimes charged. *Id.* In other words, petitioner's criminal proceeding is currently pending in state court; this federal court cannot and will not intervene in a pending state criminal action. Furthermore, petitioner does not raise a claim under

the United States Constitution, and federal habeas relief is not available for violations of state law. *See Estelle v. McGuire*, 502 U.S. 62, 67 (1991) (reiterating that “federal habeas corpus relief does not lie for errors of state law”).

Finally, “a state prisoner must exhaust available state remedies, thereby giving the State the opportunity to pass upon and correct alleged violations of its prisoners’ federal rights.” *Baldwin v. Reese*, 541 U.S. 27, 29 (2004) (internal quotation marks and citation omitted). In order to exhaust his state remedies, petitioner must present any federal constitutional claims to the State’s highest court before seeking federal habeas relief. *Id.*; *Cooper v. Neven*, 641 F.3d 322, 326 (9th Cir. 2011) (“Exhaustion requires the petitioner to ‘fairly present’ his claims to the highest court of the state.”). Petitioner’s criminal case is currently pending in state court, and he has not exhausted his state remedies.

Accordingly, the Petition for Writ of Habeas Corpus (ECF No. 1) is DISMISSED without prejudice.

IT IS SO ORDERED.

DATED this 1st day of December, 2017.

s/ Michael J. McShane
Michael McShane
United States District Judge